

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

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IN RE: Thomas Edward Brown	: CASE NO. 09-19333SR
xxx-xx-3237	: CHAPTER 13
Juanita Eberhardt Brown	: HEARING DATE: 4/14/2010
xxx-xx-4718	: TIME: 10:00 A.M.
6248 North 15th Street	: LOCATION: COURT ROOM No. 4
Philadelphia, PA 19141	: United States Bankruptcy Ct.
	: 900 Market St., 2 <sup>nd</sup> Floor
DEBTORS	: Philadelphia, PA 19107

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**ANSWER OF DEBTORS TO  
TRUSTEE'S OBJECTION TO CLAIM OF EXEMPTIONS**

And now come the Debtors, Thomas Edward Brown and Juanita Eberhardt Brown, by and through their attorney, Michael W. Gallagher, Esquire, and in Answer to the Objection of the Chapter 13 Trustee to the Debtors' Claim of Exemptions, do say and aver as follows:

1. Admitted.

2. Admitted in part, denied in part. It is admitted that the listed holder of title is Debtor Juanita Eberhardt Brown alone. The allegations that she is the sole owner or that the exemption claimed exceeds the amount allowed are denied as conclusions of law, to which no further response is required.

3. Denied as a conclusion of law, to which no further response is required.

**NEW MATTER - AFFIRMATIVE DEFENSES**

4. The averments of paragraphs 1 through 3 of this Answer are realleged herein as if restated at length

5. The Debtors are husband and wife.

6. While Debtor Juanita Eberhardt Brown owned the real estate in question prior to the marriage of the parties, since the marriage both parties have contributed to the payment of the mortgage on the premises, the upkeep thereon, etc.

7. Pursuant to Pennsylvania law, the property is therefore "marital", with both parties having an interest therein.

Bethea v. Pennsylvania Financial Responsibility Assigned Claims Plan et al, 525 A. 2d. 112; 407 Pa. Super 57 (Pa. Super. 1991); Alberts v. Pennsylvania Financial Responsibility Assigned Claims Plan, 16 Pa. D. & C. 4<sup>th</sup> 243 (Phila., 1992).

8. Based upon this, it is proper for the non-title holding spouse to claim a present interest in the property, and thus claim the marital exemption.

9. In the alternative, it would be proper for the non-title holding spouse to claim an inchoate interest in the realty, and claim the fill exemption available to him under 11 U.S.C. §522)d)(5).

WHEREFORE, Debtors pray your Honorable Court DENY the Standing Chapter 13 Trustee's Objection to the claimed exemptions

Respectfully submitted,

/s/Michael W. Gallagher  
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